

1 Honorable Robert B. Leighton  
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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT TACOMA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 TROY X. KELLEY,

17 Defendant.

18 No. 3:15-cr-05198-RBL

19 DECLARATION OF TROY X.  
20 KELLEY

21 Troy X. Kelley, pursuant to 28 U.S.C. § 1746, declares as follows:

22 1. I am the defendant in this case and I am making this declaration in response to the  
23 Government's Motion for Inquiry Concerning Potential Conflicts of Interest. In connection  
24 with this declaration, I have consulted with independent counsel, Floyd G. Short of Susman  
25 Godfrey L.L.P.

26 2. The government's motion appears to be based on questions concerning whether  
27 my defense counsel, Mark N. Bartlett of Davis Wright Tremaine LLP ("DWT"), gave me  
certain advice, including:

28 a. advice regarding the \$908,397 retainer sent from Blackstone  
29 International to DWT in March 2015 for the defense of my case by DWT and LeSourd &  
30 Patten, P.S. ("LeSourd");

1                   b.         advice regarding the payment of \$447,421 by Blackstone International to  
2 the Internal Revenue Service in March 2015;

3                   c.         advice regarding the withdrawal and payment of taxes on \$245,000 by  
4 Blackstone International for each of tax years 2013 to 2015.

5                 3.         Mr. Bartlett began representing me in connection with the government's  
6 investigation in early 2014. Mr. Bartlett did not provide and was not involved in providing any  
7 of the advice listed above in paragraph 2. I also do not hold any belief that Mr. Bartlett  
8 provided or was involved with providing any such advice.

9                 4.         My choice of criminal defense counsel is Mr. Bartlett and his firm, DWT. I do not  
10 want to be deprived of my choice of counsel. Accordingly, in an abundance of caution, and  
11 after full consultation with independent counsel, Mr. Short, I waive any right to assert an advice  
12 of counsel defense based on any of the alleged advice listed in paragraph 2 to the extent  
13 provided by Mr. Bartlett or any attorney at DWT.

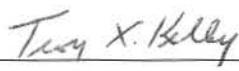
14                 5.         I also understand that the government has raised a question regarding  
15 Mr. Bartlett's prior representation of my wife, Diane Kelley, in connection with the  
16 government's investigation. I understand that my wife has waived any potential conflict that  
17 could result from that prior representation.

18                 6.         The \$908,397 provided to DWT was for a retainer to cover future anticipated legal  
19 fees for DWT and LeSourd to represent me. I fully intend to stipulate to this fact at trial if the  
20 government so requests.

21                 7.         I understand that Count I of the Indictment in this case charges Possession and  
22 Concealment of Stolen Property. I also understand that the funds the government alleges were  
23 stolen are certain funds that I obtained in 2006 through 2008 pursuant to contracts that my  
24 business had with Fidelity National Title and Old Republic Title. I disagree with the  
25 government's characterization that any such funds were stolen. There has never been an  
26 adjudication that any such funds were stolen.

1 I declare under penalty of perjury under the laws of the State of Washington that the  
2 foregoing is true and correct to the best of my knowledge and belief.

3 Executed this 5th day of June, 2015 at Seattle, Washington.

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6 Troy X. Kelley

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1                   **CERTIFICATE OF SERVICE**

2                   I hereby certify that I electronically filed the foregoing with the Clerk of the Court using  
3                   the CM/ECF system which will send notification of such filing to all parties of record.

4                   I certify under penalty of perjury that the foregoing is true and correct.

5                   Executed at Seattle, Washington this 5th day of June, 2015.

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7                   *s/ Jeffrey B. Coopersmith*

8                   Jeffrey B. Coopersmith, WSBA No. 30954

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